IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 23971 of 2005

Between:

D.Narasimha Chary

..... PETITIONER

AND

Govt. of Andhra Pradesh, Rep. by its Secretary,

Prohibition & Excise Department
Secretariat Buildings Hyderabad and another

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 2nd respondent in insisting the petitioner to furnish FDR for Rs.48,000/- for release of the vehicle in Cr.No.46/2005-06 of Prohibition and Excise PS, Musheerabad, Hyderabad District, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

It is stated that the vehicle of the petitioner i.e. Auto bearing registration No.AP-24V-2362 has been seized in connection with Cr.No.46/2005-06, dated 11.08.2005 by the Prohibition and Excise Inspector, Musheerabad, Hyderabad District. Admittedly, the crime was registered for the offence punishable under Section 34(a) of the A.P.Excise Act, 1968, against one Gattu Narsimha and Mada Rajaiah, who are said to have been transported toddy illegally in the said auto in two big cans, containing total 100 litres of toddy. It is stated the petitioner has no knowledge or any information about the illegal transportation of toddy in his vehicle.

According to panchanama and crime proceedings, there is no any allegation against the petitioner, who is the owner of the vehicle. However, the 2nd respondent is the competent authority to pass appropriate orders for releasing the vehicle. On a petition filed by the petitioner, the 2nd respondent, through the impugned order dated 17.10.2005, directed the petitioner to furnish FDR for Rs.48,000/- in his favour for release of the vehicle. The learned counsel for the petitioner contends that the vehicle itself is not liable for confiscation, as the owner has no knowledge about the illegal transportation of toddy in his vehicle.

Having regard to the facts and circumstances of the case and prima facie, as there is no involvement of the petitioner in the alleged offence, I deem it appropriate to dispose of the writ petition with a direction to the 2nd respondent to release the vehicle on a condition of petitioner furnishing bank guarantee for a sum of Rs.10,000/- (Rupees ten thousand only) along with an undertaking that he will

produce the vehicle as and when required during pendency of the confiscation proceedings without any alienation and alternation of its nature.

With the above observations, the Writ Petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

Dated: 16.11.2005

Dsr